

ESTTA Tracking number: **ESTTA583290**

Filing date: **01/22/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91210274
Party	Defendant Sprout Social, Inc.
Correspondence Address	JEFFREY A PINE DYKEMA GOSSETT PLLC 10 S WACKER DR , STE 2300 CHICAGO, IL 60606-7439 UNITED STATES jpine@dykema.com, jsalajka@dykema.com, dbielanska@dykema.com
Submission	Motion to Compel Discovery
Filer's Name	Jeffrey A. Pine
Filer's e-mail	jpine@dykema.com, jsalajka@dykema.com, dbielanska@dykema.com
Signature	/Jap/
Date	01/22/2014
Attachments	Motion to Compel.pdf(808573 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SproutLoud Media Networks, LLC,
Opposer,

v.

Sprout Social, Inc.,
Applicant.

Opposition No. 91210274

Serial No. 85/613,523

**APPLICANT’S MOTION TO COMPEL DISCOVERY
RESPONSES OR IN THE ALTERNATIVE, PRECLUDE OPPOSER FROM USING
DOCUMENTS DURING THE OPPOSITION**

Pursuant to 37 C.F.R. § 2.120, Applicant, Sprout Social, Inc. (“Sprout Social”), through its counsel, hereby requests an order compelling Opposer, SproutLoud Media Networks, LLC (“SproutLoud”) to produce documents in response to Sprout Social’s First Set of Requests for Production of Documents to Opposer SproutLoud Media Networks, LLC, which were served on SproutLoud on October 29, 2013, and to provide Applicant an extension of the discovery period to respond to the document production. In the alternative, Sprout Social hereby requests an order precluding Opposer SproutLoud from using documents during the Opposition.

1. On October 29, 2013, Sprout Social served its First Set of Requests for Production of Documents to Opposer SproutLoud Media Networks, LLC on SproutLoud. A Copy of the discovery requests are attached hereto as Exhibit A.

2. As an example of documents requested, Sprout Social requested documents upon which Opposer intends to rely on to support Opposer’s allegation that the marks are confusingly similar and the services are highly similar. This request was taken from paragraph 13 of SproutLoud’s Notice of Opposition (see below and Exhibit A).

DOCUMENT REQUEST NO. 31:

All documents upon which Opposer intends to rely to support or prove Opposer's allegation that "Applicant's Trademark is confusingly similar in appearance, sound, connotation and commercial impression to Opposer's Trademarks. Moreover, the services offered under Applicant's Trademark are highly similar to the services offered under Opposer's Trademarks" (Opposer's Notice of Opposition, para. 13).

3. On November 27, 2013, counsel for SproutLoud requested an extension to provide responses until December 6, 2013, because counsel was travelling over the Thanksgiving holiday. Sprout Social agreed to the extension. A Copy of the request and agreement is attached hereto as Exhibit B.

4. On November 18, 2013, counsel for SproutLoud requested a three-month extension to the discovery schedule while the parties discussed a potential settlement to the opposition. After discussions between counsel, the parties agreed to a one-month extension. A Copy of the request is attached hereto as Exhibit C.

5. On December 20, 2013, counsel for Sprout Social requested that SproutLoud produce its documents in response to Sprout Social's October 29th document requests. A Copy of the request is attached hereto as Exhibit D.

6. On January 9, 2014, Sprout Social's counsel again requested that SproutLoud produce its documents in response to the October 29th document requests. SproutLoud's counsel again said that they were preparing the documents for production, and that they would have the documents to Sprout Social "before the discovery cut-off [January 22, 2014], and sooner if [they] can." A Copy of the correspondence is attached hereto as Exhibit E.

7. On January 10, 2014, Sprout Social's counsel responded that the January 22nd date for production of documents that were due on December 6th was not acceptable. Sprout Social's counsel further stated that as the Opposer, "many of the production documents

ostensibly supporting SproutLoud Media's position should have been in [its] possession when the opposition began, months ago." Sprout Social's counsel further requested that those documents should be produced immediately, and as for any other documents, SproutLoud should produce those by Wednesday, January 15th. A Copy of the correspondence is attached hereto as Exhibit F.

8. During telephone conversations during the week of January 13, 2014, Applicant's counsel again requested that Opposer immediately produce documents that were overdue, explaining that Opposer's failure to produce documents severely prejudiced Applicant, especially since Opposer was requesting Applicant's deposition prior to producing any documents. Further, without seeing documents before the close of discovery, Applicant was prejudiced in that it could not determine what other documents it should request, what other discovery it may need and, if necessary, the opportunity to move the Board to compel production.

9. To date, SproutLoud has not produced a single document in response to Sprout Social's document requests. The Close of Discovery is today, January 22, 2014, and Sprout Social has been prejudiced by Opposer's failure to produce any documents. Further, Sprout Social may need additional discovery or may need to file additional motions to compel upon reviewing SproutLoud's document production, to the extent it occurs.

10. Sprout Social has requested a one-month extension of time to complete discovery. SproutLoud has refused and on January 17, 2014, Sprout Social filed a motion to extend discovery (without consent). That motion is pending.

11. Applicant has made a good faith effort to resolve this issue, but Opposer has failed to produce the documents requested in a timely fashion thereby creating a prejudice against Applicant.

Wherefore, Applicant respectfully requests that the Board enter an order against Opposer, SproutLoud as follows:

A. Requiring SproutLoud to fully respond to Sprout Social's First Set of Requests for the Production of Documents to SproutLoud Media Networks, LLC;

B. Extend the discovery period for a time, no less than thirty days from the date of ruling or SproutLoud's document production, whichever is later, that would allow Applicant to follow up on any and all discovery matters;

C. In the alternative, precluding SproutLoud from using any documents that should have been produced in response to Sprout Social's First Set of Requests for the Production of Documents to SproutLoud Media Networks, LLC.

Respectfully submitted,

Date: January 22, 2014

/Jeffrey A. Pine/

Jeffrey A. Pine
DYKEMA GOSSETT PLLC
10 South Wacker Drive, Suite 2300
Chicago, Illinois 60606
(312) 876-1700 Telephone
(312) 876-1155 Facsimile
Attorneys for Applicant

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of APPLICANT'S MOTION TO COMPEL
DISCOVERY RESPONSES OR IN THE ALTERNATIVE, PRECLUDE OPPOSER FROM
USING DOCUMENTS DURING THE OPPOSITION is served via email to:

SPROUTLOUD MEDIA NETWORKS, LLC
c/o Ury Fischer (*UFischer@lottfischer.com*)
Neda Lajevardi (*NLajevardi@lottfischer.com*)
LOTT & FISCHER PL
P.O. Box 141098
Coral Gables, Florida 33114-1098

on January 22, 2014.

/Jeffrey A. Pine/
Jeffrey A. Pine

Exhibit A

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SproutLoud Media Networks, LLC,
Opposer,

v.

Sprout Social, Inc.,
Applicant.

Opposition No. 91210274

Serial No. 85/613,523

**APPLICANT'S FIRST SET OF REQUESTS FOR PRODUCTION OF
DOCUMENTS TO OPPOSER SPROUTLOUD MEDIA NETWORKS, LLC**

Pursuant to Rule 34 of the Federal Rules of Civil Procedure, and 37 C.F.R. Section 2.120, Sprout Social, Inc. ("Applicant"), requests the production of the following documents and things in the possession, custody or control of SproutLoud Media Networks, LLC ("Opposer") for inspection and/or copying at the offices of Dykema Gossett PLLC, 10 South Wacker Drive, Suite 2300, Chicago, Illinois 60606, within thirty (30) days from service hereof. Opposer are also requested to serve the written response required by Rule 34 within the time period provided by the Rule.

DEFINITIONS AND INSTRUCTIONS

The Definitions and Instructions set forth in Applicant's First Set of Interrogatories are incorporated by reference and are to be treated as if fully set forth herein.

REQUESTS FOR PRODUCTION OF DOCUMENTS

DOCUMENT REQUEST NO. 1:

All documents and tangible things referred to, contemplated or identified in Applicant's First Set of Interrogatories to Opposer or in response to Applicant's First Set of Interrogatories to Opposer.

DOCUMENT REQUEST NO. 2:

All documents and tangible things concerning or relating to the origination, development, selection or adoption of Opposer's Marks.

DOCUMENT REQUEST NO. 3:

All documents and tangible things concerning or relating to the use or future use of Opposer's Marks in connection with any of Opposer's products or services, including all documents indicating when and where that use first occurred.

DOCUMENT REQUEST NO. 4:

Any surveys, searches, investigations or market research relating to Opposer's Marks or Applicant's Marks, including but not limited to searches of databases such as LEXIS/NEXIS, DIALOG or TRADEMARKSCAN, and reports or investigations related to the selection, adoption, and/or application for registration of Opposer's Marks.

DOCUMENT REQUEST NO. 5:

All documents concerning or relating to Opposer's allegations set forth in its Petition For Cancellation and in Opposer's initial disclosures.

DOCUMENT REQUEST NO. 6:

Any documents and tangible things concerning or relating to Opposer's first use of Opposer's Marks for each and every type of product or service in connection with which Opposer's Marks have been used in the United States.

DOCUMENT REQUEST NO. 7:

Specimens of all products or services bearing Opposer's Marks or upon which Opposer intends to use Opposer's Marks in the future, and all documents evidencing when and where each specimen was first used in interstate commerce.

DOCUMENT REQUEST NO. 8:

All documents concerning or relating to any third party adoption or use of any mark or name containing the terms SPROUTLOUD, SPROUT or SOCIAL, or any similar term.

DOCUMENT REQUEST NO. 9:

All documents concerning or relating to the prosecution history for any federal or state trademark applications for Opposer's Marks.

DOCUMENT REQUEST NO. 10:

All documents concerning or relating to marketing or consumer research, including individual questionnaires, pilot studies, focus groups and surveys undertaken concerning Opposer's Marks or Applicant's Mark.

DOCUMENT REQUEST NO. 11:

All documents concerning or relating to publicity (both solicited and unsolicited) in the United States concerning Opposer's Marks and/or the products or services offered under Opposer's Marks, including press releases and articles of any kind.

DOCUMENT REQUEST NO. 12:

All documents concerning or relating to inquiries from and negotiations with third parties concerning the possibility of a license, franchise, sublicense, sub-franchise, assignment or distribution agreement with Opposer concerning Opposer's Marks and/or Opposer's products and/or services.

DOCUMENT REQUEST NO. 13:

All past and current licenses, franchises, sublicenses, sub-franchises, distributorships and assignments and other agreements, together with related correspondence or other documents concerning Opposer's Marks.

DOCUMENT REQUEST NO. 14:

All security agreements concerning or relating to Opposer's Marks.

DOCUMENT REQUEST NO. 15:

All documents and tangible things concerning or relating to the locations in the United States at which Opposer has promoted, advertised and/or sold products or services under Opposer's Marks, including all documents indicating when and where those activities first occurred, or at which Opposer intends to promote, advertise, and/or sell products or services under Opposer's Marks.

DOCUMENT REQUEST NO. 16:

All documents and tangible things concerning or relating to the manner of marketing (past, current and contemplated) of products or services bearing Opposer's Marks in the United States, including all documents indicating when and where that marketing first occurred.

DOCUMENT REQUEST NO. 17:

All documents and tangible things concerning or relating to the channels of trade in which Opposer has offered or may offer products or services under or using Opposer's Marks.

DOCUMENT REQUEST NO. 18:

All documents and tangible things which identify the actual or prospective classes of customers and purchasers of products or services offered under or using Opposer's Marks.

DOCUMENT REQUEST NO. 19:

Documents sufficient to identify the amount of sales in the United States of products or services offered under or using Opposer's Marks from February 1, 2006 to the present, including a breakout of such sales.

DOCUMENT REQUEST NO. 20:

Documents sufficient to identify the amount of advertising and promotional expenditures for products or services offered under or using Opposer's Marks in the United States from February 1, 2006 to the present, including a breakout of such expenditures.

DOCUMENT REQUEST NO. 21:

All documents that refer or relate to the significance of Opposer's Marks as used on or in connection with, or contemplated to be used on or in connection with, products or services offered for sale by Opposer.

DOCUMENT REQUEST NO. 22:

All documents relating to threatening or pending arbitration, litigation or other adversarial proceedings (including oppositions and cancellations) concerning Opposer's Marks.

DOCUMENT REQUEST NO. 23:

All documents and tangible things concerning or relating to Opposer's knowledge of Applicant or Applicant's Mark, and when Opposer first knew of Applicant or Applicant's Mark.

DOCUMENT REQUEST NO. 24:

All documents and tangible things evidencing any confusion between Opposer, Opposer's Marks, or Opposer's products and/or services and Applicant, Applicant's Marks, and/or Applicant's products and/or services, including, but not limited to, inquiries, comments or other communications by or from customers, suppliers, or members of the public, either written or oral, showing any confusion, suspicion, belief or doubt as to a possible relationship between Applicant and Opposer or the origin of their respective products and/or services.

DOCUMENT REQUEST NO. 25:

All documents or communications between Opposer and any third party concerning Applicant or Applicant's Marks.

DOCUMENT REQUEST NO. 26:

All documents or communications between Opposer and any third party concerning or relating to this proceeding.

DOCUMENT REQUEST NO. 27:

All documents supporting or negating any allegations set forth in Opposer's Notice of Opposition.

DOCUMENT REQUEST NO. 28

All documents upon which Opposer intend to rely on to support or prove Opposer's case in this proceeding.

DOCUMENT REQUEST NO. 29:

All documents evidencing the use of Opposer's Marks on any and all products or services from February 1, 2006 until the present, including specimens and documents evidencing when and where each of Opposer's Marks was used in interstate commerce on specimens during that time.

DOCUMENT REQUEST NO. 30:

All documents upon which Opposer intends to rely to support or prove Opposer's allegation that "Opposer's Trademarks are well-known and distinctive trademarks which Opposer has advertised, promoted, and used since at least as early as February 1, 2006. Based on such long use and promotion, the public has come to readily associate Opposer with the services covered by Opposer's Registration and Opposer's Application No. 85/978,874" (Opposer's Notice of Opposition, para. 12).

DOCUMENT REQUEST NO. 31:

All documents upon which Opposer intends to rely to support or prove Opposer's allegation that "Applicant's Trademark is confusingly similar in appearance, sound, connotation and commercial impression to Opposer's Trademarks. Moreover, the services offered under

Applicant's Trademark are highly similar to the services offered under Opposer's Trademarks" (Opposer's Notice of Opposition, para. 13).

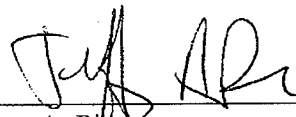
DOCUMENT REQUEST NO. 32:

All documents that relate to the circumstances surrounding Opposer's attempt to purchase the domain name www.sproutlocal.com from Applicant.

DOCUMENT REQUEST NO. 33:

All documents that relate to any and all changes to Opposer's website located at www.sproutloud.com from February 1, 2006 to the present, including any changes to the website in which Opposer announced or began providing new services (such as SproutLoud's Distributed Marketing Solutions, Social Media Management, Social Media Analytics, Social Media Content Publishing, On-line Review Monitoring, and the related features), the date or dates of those changes and the reasons for the changes.

Date: October 29, 2013



Jeffrey A. Pine
DYKEMA GOSSETT PLLC
10 South Wacker Drive, Suite 2300
Chicago, Illinois 60606
(312) 876-1700 Telephone
(312) 876-1155 Facsimile
Attorneys for Applicant

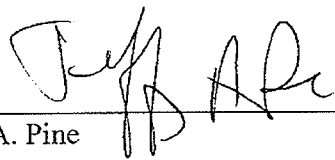
CERTIFICATE OF MAILING AND SERVICE

I hereby certify that a true and correct copy of Applicant's First Set of Requests for Production of Documents to Opposer SproutLoud Media Networks, LLC is being deposited with the United States Postal Service on, postage prepaid, and is addressed to:

SPROUTLOUD MEDIA NETWORKS, LLC

Ury Fischer
C/O LOTT & FISCHER PL
P.O. Box 141098
Coral Gables, Florida 33114-1098

via first class mail, on October 29, 2013.



Jeffrey A. Pine

Exhibit B

Pine, Jeffrey

From: Neda Lajevardi <NLajevardi@lottfischer.com>
Sent: Wednesday, November 27, 2013 3:18 PM
To: Pine, Jeffrey
Cc: Neda Lajevardi; Ury Fischer; Salajka, Jane
Subject: Re: Extension of Time to Respond to Sprout Social's Discovery Requests

Thank you very much, Jeff. Same to you.

Best regards,
Neda

Neda Lajevardi, Esq.
Associate
Lott & Fischer, PL
355 Alhambra Circle
Suite 1100
Coral Gables, FL 33134
Telephone: 305-448-7089 x 206
Facsimile: 305-446-6191
www.lottfischer.com

On Nov 27, 2013, at 4:04 PM, "Pine, Jeffrey" <JPine@dykema.com> wrote:

No problem Neda. Have a happy holiday. Jeff

DyKEMA	Jeffrey A. Pine	312-627-2122 Direct	10 South Wacker Drive, Suite 2300
	Attorney	312-876-1700 Main	Chicago, Illinois 60606
	JPine@dykema.com	866-364-7252 Fax	www.dykema.com

From: Neda Lajevardi [<mailto:NLajevardi@lottfischer.com>]
Sent: Wednesday, November 27, 2013 1:40 PM
To: Pine, Jeffrey
Cc: Ury Fischer
Subject: RE: Extension of Time to Respond to Sprout Social's Discovery Requests
Importance: High

Dear Jeff,

I meant to ask whether you would be amenable to extending the deadline to next Friday, December 6. I apologize for the typo.

Thank you and Happy Thanksgiving.

Best regards,
<image001.jpg>
Neda Lajevardi, Esq.
Associate

<image002.gif>
355 Alhambra Circle
Suite 1100
Coral Gables, FL 33134
Telephone: (305) 448-7089 x 206
Facsimile: (305) 446-6191
www.lottfischer.com

From: Neda Lajevardi
Sent: Wednesday, November 27, 2013 2:35 PM
To: Pine, Jeffrey
Cc: Ury Fischer
Subject: Extension of Time to Respond to Sprout Social's Discovery Requests
Importance: High

Dear Jeff,

I will be traveling for the Thanksgiving holiday and given that our responses to Sprout Social's discovery requests are due on Tuesday, December 3, I wanted to ask whether you would be amenable to extending the deadline to respond until Friday, December 29. Please let me know.

Thank you.

Best regards,
<image001.jpg>
Neda Lajevardi, Esq.
Associate
<image002.gif>
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Exhibit C

Pine, Jeffrey

From: Neda Lajevardi <NLajevardi@lottfischer.com>
Sent: Monday, November 18, 2013 10:51 AM
To: Pine, Jeffrey
Cc: Salajka, Jane; Ury Fischer; Sylvia Donna
Subject: Extension of Opposition Proceeding Deadlines - SproutLoud Media Networks, LLC v. Sprout Social, Inc./Opposition No. 91210274 (Our File No. 19073-8820)

Dear Jeff,

As you may be aware, our clients have been discussing potential settlement of the opposition. Please advise if your client would be amenable to a 3-month extension of all deadlines pertaining to the opposition proceeding, to allow the parties to further explore settlement.

Best regards,



Neda Lajevardi, Esq.
Associate

LOTT & FISCHER

355 Alhambra Circle
Suite 1100
Coral Gables, FL 33134
Telephone: (305) 448-7089 x 206
Facsimile: (305) 446-6191
www.lottfischer.com

Exhibit D

Pine, Jeffrey

From: Pine, Jeffrey
Sent: Friday, December 20, 2013 7:05 PM
To: 'Neda Lajevardi'
Cc: Ury Fischer; Salajka, Jane; Sylvia Donna
Subject: RE: Extension of Time to Respond to Sprout Social's Discovery Requests

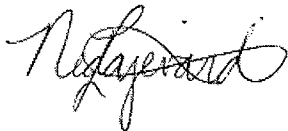
Neda, please let us know when SproutLoud will be sending its production documents. Thank you,
Jeff

From: Neda Lajevardi [mailto:NLajevardi@lottfischer.com]
Sent: Tuesday, December 17, 2013 4:22 PM
To: Pine, Jeffrey
Cc: Ury Fischer; Salajka, Jane; Sylvia Donna
Subject: RE: Extension of Time to Respond to Sprout Social's Discovery Requests

Dear Jeff,

I spoke with the Interlocutory Attorney and he said that he will call the issue to the attention of the paralegals so that the Opposition schedule can be corrected.

Best regards,



Neda Lajevardi, Esq.
Associate

LOTT & FISCHER

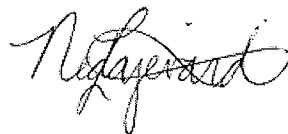
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www.lottfischer.com

From: Neda Lajevardi
Sent: Tuesday, December 17, 2013 4:16 PM
To: 'Pine, Jeffrey'
Cc: Ury Fischer; Salajka, Jane; Sylvia Donna
Subject: RE: Extension of Time to Respond to Sprout Social's Discovery Requests

Dear Jeff,

As you saw in the motion to extend, we requested that the close of discovery be extended for 30 days. I'm not sure why the deadline for expert disclosure was reset as well. I left a voicemail message for the Interlocutory Attorney to address this issue.

Best regards,



Neda Lajevardi, Esq.
Associate
LOTT & FISCHER

355 Alhambra Circle
Suite 1100
Coral Gables, FL 33134
Telephone: (305) 448-7089 x 206
Facsimile: (305) 446-6191
www.lottfischer.com

From: Pine, Jeffrey [<mailto:JPine@dykema.com>]
Sent: Tuesday, December 17, 2013 4:03 PM
To: Neda Lajevardi
Cc: Ury Fischer; Salajka, Jane
Subject: RE: Extension of Time to Respond to Sprout Social's Discovery Requests

Neda:

As a follow-up to my voice-mail message last week, please have the TTAB reset the Opposition schedule to indicate that the Expert Disclosure stage is closed. The last day to disclose experts was November 23, 2013, the motion to extend dates was after that date and we did not agree to extend the dates for expert disclosure.

Please let me know when this has been done.

Thank you,
Jeff

From: Neda Lajevardi [<mailto:NLajevardi@lottfischer.com>]
Sent: Wednesday, November 27, 2013 3:18 PM
To: Pine, Jeffrey
Cc: Neda Lajevardi; Ury Fischer; Salajka, Jane
Subject: Re: Extension of Time to Respond to Sprout Social's Discovery Requests

Thank you very much, Jeff. Same to you.

Best regards,
Neda

Neda Lajevardi, Esq.
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From: Neda Lajevardi [<mailto:NLajevardi@lottfischer.com>]
Sent: Wednesday, November 27, 2013 1:40 PM
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From: Neda Lajevardi
Sent: Wednesday, November 27, 2013 2:35 PM
To: Pine, Jeffrey
Cc: Ury Fischer
Subject: Extension of Time to Respond to Sprout Social's Discovery Requests
Importance: High

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Thank you.

Best regards,
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Facsimile: (305) 446-6191
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Exhibit E

Pine, Jeffrey

From: Leslie J. Lott <LJLott@lottfischer.com>
Sent: Thursday, January 09, 2014 4:36 PM
To: Pine, Jeffrey
Cc: Neda Lajevardi; Ury Fischer
Subject: Sproutlout Media v. Sprout Social, Inc. TTAB Opp. No. 9120274

Dear Jeff

Ury is tied up with other litigation, so I am stepping in to assist Neda, given the upcoming discovery cut-off and trial dates.

We understand that settlement discussions between our clients have proven unfruitful and that we should proceed. With discovery cut-off coming up two weeks from yesterday, we wanted to reach out as early as possible to clear a date for your client's 30 (b)(6) deposition.

We are available the 13th, 14th, 16th, 17th, or Jan 20, 21, 22. The topics will be: selection and origin of mark, search reports and opinions, details regarding your client's use of its mark – i.e. details of services and goods provided and to be provided, channels of trade, channels of advertising, nature and extent of use, customers, advertisers, etc. and any evidence of confusion or any communications, inquiries etc. that might have been misdirected, intended for another organization, mentioned SPROUTLOUD or our client's marketing programs.

I hope this will be enough to help you speak with the right folks – we will get a formal 30(b)(6) notice to you as soon as we can so you will have more details.

Please let us know at your earliest convenience which date works for your client.

I understand we owe you document production. Neda is working on that now, we will have documents to you before the discovery cut-off, and sooner if we can.

I look forward to working with you.

Sincerely,

Leslie Lott



Leslie J. Lott, Esq.
Board Certified Intellectual Property Attorney

LOTT & FISCHER

355 Alhambra Circle
Suite 1100
Coral Gables, FL 33134
Telephone: (305) 448-7089 x 110
Facsimile: (305) 446-6191

Exhibit F

Pine, Jeffrey

From: Pine, Jeffrey
Sent: Friday, January 10, 2014 4:17 PM
To: 'Leslie J. Lott'
Cc: Neda Lajevardi; Ury Fischer; Salajka, Jane
Subject: RE: Sproutlout Media v. Sprout Social, Inc. TTAB Opp. No. 9120274
Attachments: CHICAGO-#4099644-v1-Notice of Deposition of Jared Shusterman.PDF

Leslie:

I will check with my client about the deposition dates that you have proposed, but until we have the actual 30(b)(6) notice, we cannot know the particular individuals that will testify in response and their availability.

As for SproutLoud Media's document production, documents were due on December 2nd and we agreed to your request for an extension to December 6th because, we were told, the attorneys were travelling over the Thanksgiving weekend. I also asked Neda for the documents again on December 20th. For you to now tell us that you will have them to us by the last day of discovery, January 22nd, is not acceptable. As the Opposer, many of the production documents ostensibly supporting SproutLoud Media's position should have been in your possession when the opposition began, months ago. Please produce those documents immediately. As for any other documents, please produce those by Wednesday, January 15th, so that we can prepare for depositions of your client.

Attached is the Notice of Deposition of Jared Shusterman, set for January 21, 2014 in our offices. Please let me know if this date and location is acceptable, or otherwise, please propose another date.

Thank you,
Jeff

From: Leslie J. Lott [<mailto:LJLott@lottfischer.com>]
Sent: Thursday, January 09, 2014 4:36 PM
To: Pine, Jeffrey
Cc: Neda Lajevardi; Ury Fischer
Subject: Sproutlout Media v. Sprout Social, Inc. TTAB Opp. No. 9120274

Dear Jeff

Ury is tied up with other litigation, so I am stepping in to assist Neda, given the upcoming discovery cut-off and trial dates.

We understand that settlement discussions between our clients have proven unfruitful and that we should proceed. With discovery cut-off coming up two weeks from yesterday, we wanted to reach out as early as possible to clear a date for your client's 30 (b)(6) deposition.

We are available the 13th, 14th, 16th, 17th, or Jan 20, 21, 22. The topics will be: selection and origin of mark, search reports and opinions, details regarding your client's use of its mark – i.e. details of services and goods provided and to be provided, channels of trade, channels of advertising, nature and extent of use, customers, advertisers, etc. and any evidence of confusion or any communications, inquiries etc. that might have been misdirected, intended for another organization, mentioned SPROUTLOUD or our client's marketing programs.

I hope this will be enough to help you speak with the right folks – we will get a formal 30(b)(6) notice to you as soon as we can so you will have more details.

Please let us know at your earliest convenience which date works for your client.

I understand we owe you document production. Neda is working on that now, we will have documents to you before the discovery cut-off, and sooner if we can.

I look forward to working with you.

Sincerely,

Leslie Lott

A handwritten signature in black ink, appearing to read 'Leslie J. Lott', with a stylized flourish extending to the right.

Leslie J. Lott, Esq.
Board Certified Intellectual Property Attorney

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